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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,924	03/08/2005	Johannes Marra	NL 020878	7552

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER	
REHM, ADAM C	

ART UNIT	PAPER NUMBER
2875	

DATE MAILED: 12/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/526,924	MARRA ET AL.	
	Examiner	Art Unit	
	Adam C. Rehm	2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 August 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10 and 12-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) *1-10 and 12-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *03 October 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 7-10, 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by MABE ET AL. (US 6,568,840), which discloses a lighting device comprising:

- At least one light source (15);
- A light reflector disposed beside the light source for reflecting light therefrom (10);
- The light reflector comprising a synthetic, light-transmitting element bounding a space (3, lamp body; Claim 1);
- Diffusely reflective free-flowing, pigmented/colored powder present inside said space (101/121/122, Column 3, Line 66-Column 4, Line 8; Column 4, Lines 53-63);
- Wherein the space is bounded by a second light transmitting element (2);
- Wherein the space is bounded by a housing (13); and
- A roughened light-transmitting element with a roughened surface facing the light source (113, Fig. 4A; Column 4, Lines 49-52).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claim 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over MABE ET AL. (US 6,568,840) and ONO (US 6,830,354). MABE substantially discloses the claimed invention including a diffusively reflective optical powder comprised of aluminum (101/121/122), but does not disclose such a powder comprised of aluminum oxide of a particular diameter or wt.

3. Regarding the slight change in material, it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use. *In re Leshin*, 125 USPQ 416. Further, ONO teaches the use of aluminum oxide (Al2O3) as a reflective material (Column 10, Lines 26-32).

4. Regarding the specific diameter and wt., a change in the size of an existing element is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237. Likewise, a change in form of any element of prior patent must result in more than useful natural phenomenon that man has accumulated through common knowledge. *Span-Deck Inc. v. Fab-Con Inc.*, 215 USPQ 835.

5. Thus, it would have been obvious to one of ordinary skill in the art at the time of invention to modify MABE and use the aluminum oxide as taught by ONO in order to provide a reflective surface. Additionally, it would have been obvious to exercise

common engineering principles and experiment with the size of the powder in order to derive an optimum powder size in order to achieve optimal light reflective properties.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over MABE ET AL. (US 6,568,840). MABE substantially discloses the claimed invention including a space (13), but does not disclose the specific space thickness. However, a change in the size of an existing element is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237. Likewise, a change in form of any element of prior patent must result in more than useful natural phenomenon that man has accumulated through common knowledge. *Span-Deck Inc. v. Fab-Con Inc.*, 215 USPQ 835. Thus, it would have been obvious to one of ordinary skill in the art at the time of invention to modify MABE and utilize a space as claimed for the purpose of obtaining optimum light qualities.

7. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over MABE ET AL. (US 6,568,840), which substantially discloses the claimed invention including a light-transmitting element with an optically roughened surface (113), but does not disclose such a light transmitting element facing towards the powder being optically roughened. However, Applicant admits that the use of a roughened surface to manipulate light is known in the art (Page 1, Lines 22-25). It would have been obvious to one of ordinary skill in the art at the time of invention to modify MABE and use the optically roughened surface as taught by Applicant's admitted prior art in order to manipulate light in order to have a desired effect.

8. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over MABE ET AL. (US 6,568,840), which discloses a lighting device method for manufacture comprising:

- At least one light source (15);
- A lighting fixture (13);
- A light reflector arranged beside the light source for diffuse reflection (10);
- A light-transmitting element bounding a space having two parallel optically smooth surfaces (2);
- Wherein a surface that faces towards the light source extends parallel to a surface of the lighting fixture facing the lamp and a second surface facing towards the lighting fixture (3; inner and outer surfaces); and
- Diffusely reflective free flowing powder present inside the space (111).

9. While MABE substantially discloses the claimed invention, MABE does not disclose a specularly reflective surface. However, Applicant admits that such is known in the art (Page 2, Line 5). It would have been obvious to one of ordinary skill in the art at the time of invention to modify MABE and use the specularly reflective surface as taught by Applicant's admitted prior art in order to provide desired reflection.

Response to Amendment

10. Applicant's amendment, dated 8/23/2006, has been received. The objection to the drawings and 112 is withdrawn.

Response to Arguments

11. Applicant's arguments have been fully considered but they are not persuasive.

12. Applicant contends that the addition of the language "free flowing" "makes clear that Applicant's diffusely reflecting power is not trapped inside a matrix (such as the oil varnish of Mabe), but is gree flowing inside the space formed by the light-transmitting element." Examiner respectfully disagrees. Merely prepending "free-flowing" to the term "powder" does not support Applicant's argument. A reasonable interpretation is that the powder is a free flowing substance comprised within the space, i.e. free flowing prior to adhesion to a varnish layer. Moreover, Examiner is unable to find support in the specification for any other interpretation, i.e. the powder retains its free flowing nature within the space after manufacture. Notably, the latter interpretation may present a new matter issue.

13. Applicant contends that material selection and particle size renders the claimed invention patentable over the art of record and arriving at such for purposes of rejection is only possible via employment of improper hindsight. Examiner respectfully disagrees. It has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use. *In re Leshin*, 125 USPQ 416. Further, ONO teaches the use of Al2O3 as provided above.

14. Regarding change in particle size for optimum reflection, determining size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237. Further, it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 205 USPQ 215. As such, it would have been obvious to select a powder that has reflective properties and size the powder particles in relation to intensity of reflection desired.

15. The rejections are maintained.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

16. HED (US 5,222,795) discloses a reflective powder.

17. MURATA ET AL. (US 4,929,866) discloses a reflective powder.

18. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adam C. Rehm whose telephone number is 571.272.8589. The examiner can normally be reached on M-F 9-5:30 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 571.272.2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ACR
11/272006

THOMAS M. SEMBER
PRIMARY EXAMINER